

HOUSE BILL 388

P3
HB 28/11 – APP

2lr2306

By: **Delegate O'Donnell**
Introduced and read first time: February 1, 2012
Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Benefits – Requirement of Proof of Lawful Presence**

3 FOR the purpose of requiring adults to provide proof of lawful presence in the United
4 States before receiving certain public benefits; requiring State units and
5 political subdivisions that provide certain public benefits to verify the lawful
6 presence of certain persons in the United States; providing for certain
7 exceptions; requiring certain applicants for certain public benefits to produce
8 certain types of identification; requiring certain applicants for certain public
9 benefits to execute a certain affidavit; authorizing State units and political
10 subdivisions to adopt certain modifications to certain requirements under
11 certain circumstances; prohibiting State units and political subdivisions from
12 providing certain public benefits to certain persons; making it a misdemeanor to
13 knowingly make a certain false, fictitious, or fraudulent statement or affidavit;
14 providing certain penalties; requiring State units and political subdivisions to
15 verify an applicant's lawful presence through a certain federal program;
16 allowing a certain affidavit to be presumed to be proof of lawful presence under
17 certain circumstances; requiring certain reports; defining certain terms; and
18 generally relating to requiring proof of a person's lawful presence before receipt
19 of certain public benefits.

20 BY adding to

21 Article – State Government
22 Section 10–1301 through 10–1308 to be under the new subtitle “Subtitle 13.
23 Proof of Lawful Presence to Receive Public Benefits”
24 Annotated Code of Maryland
25 (2009 Replacement Volume and 2011 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 MARYLAND, That the Laws of Maryland read as follows:

28 **Article – State Government**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **SUBTITLE 13. PROOF OF LAWFUL PRESENCE TO RECEIVE PUBLIC BENEFITS.**

2 **10-1301.**

3 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
4 **INDICATED.**

5 **(B) “EMERGENCY MEDICAL CONDITION” HAS THE MEANING STATED IN**
6 **42 U.S.C. § 1396B(v)(3).**

7 **(C) “FEDERAL PUBLIC BENEFITS” HAS THE MEANING STATED IN 8**
8 **U.S.C. § 1611.**

9 **(D) “POLITICAL SUBDIVISION” MEANS A COUNTY OR MUNICIPAL**
10 **CORPORATION IN THE STATE.**

11 **(E) “SAVE PROGRAM” MEANS THE FEDERAL SYSTEMATIC ALIEN**
12 **VERIFICATION OF ENTITLEMENT PROGRAM OPERATED BY THE UNITED STATES**
13 **DEPARTMENT OF HOMELAND SECURITY.**

14 **(F) “STATE OR LOCAL PUBLIC BENEFITS” HAS THE MEANING STATED IN**
15 **8 U.S.C. § 1621.**

16 **(G) “STATE UNIT” MEANS A PRINCIPAL DEPARTMENT, OFFICE,**
17 **COMMISSION, COUNCIL, OR OTHER UNIT IN THE EXECUTIVE BRANCH OF STATE**
18 **GOVERNMENT.**

19 **10-1302.**

20 **IT IS THE POLICY OF THE STATE THAT ALL ADULTS SHALL PROVIDE**
21 **PROOF THAT THEY ARE LAWFULLY PRESENT IN THE UNITED STATES BEFORE**
22 **RECEIVING PUBLIC BENEFITS.**

23 **10-1303.**

24 **(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION OR AS**
25 **EXEMPTED BY FEDERAL LAW, EACH STATE UNIT AND EACH POLITICAL**
26 **SUBDIVISION OF THE STATE SHALL VERIFY THE LAWFUL PRESENCE IN THE**
27 **UNITED STATES OF EACH ADULT WHO APPLIES FOR FEDERAL PUBLIC BENEFITS**
28 **OR STATE OR LOCAL PUBLIC BENEFITS.**

1 **(B) VERIFICATION OF LAWFUL PRESENCE UNDER SUBSECTION (A) OF**
2 **THIS SECTION IS NOT REQUIRED FOR:**

3 **(1) ANY PURPOSE FOR WHICH LAWFUL PRESENCE IN THE UNITED**
4 **STATES IS NOT REQUIRED BY LAW, ORDINANCE, OR RULE;**

5 **(2) ANY HEALTH CARE SERVICES OR ITEMS NECESSARY TO TREAT**
6 **A PERSON'S EMERGENCY MEDICAL CONDITION AND THAT ARE NOT RELATED TO**
7 **ORGAN TRANSPLANT PROCEDURE;**

8 **(3) PRENATAL CARE;**

9 **(4) SHORT-TERM, NONCASH, IN-KIND EMERGENCY DISASTER**
10 **RELIEF;**

11 **(5) PUBLIC HEALTH ASSISTANCE FOR IMMUNIZATIONS AND**
12 **TREATING COMMUNICABLE DISEASE SYMPTOMS REGARDLESS OF WHETHER THE**
13 **SYMPTOMS ARE CAUSED BY A COMMUNICABLE DISEASE; AND**

14 **(6) PROGRAMS, SERVICES, OR ASSISTANCE, INCLUDING SOUP**
15 **KITCHENS, CRISIS COUNSELING AND INTERVENTION, AND SHORT-TERM**
16 **SHELTER, SPECIFIED BY FEDERAL LAW OR REGULATION THAT:**

17 **(I) DELIVER IN-KIND SERVICES AT THE COMMUNITY**
18 **LEVEL, INCLUDING SERVICES THROUGH PUBLIC OR PRIVATE NONPROFIT**
19 **AGENCIES;**

20 **(II) DO NOT CONDITION THE PROVISION, AMOUNT, OR COST**
21 **OF ASSISTANCE PROVIDED BASED ON THE PERSON'S INCOME OR RESOURCES;**
22 **AND**

23 **(III) ARE NECESSARY FOR THE PROTECTION OF LIFE OR**
24 **SAFETY.**

25 **(C) EACH APPLICANT FOR FEDERAL PUBLIC BENEFITS OR STATE OR**
26 **LOCAL PUBLIC BENEFITS SHALL BE REQUIRED TO:**

27 **(1) PRODUCE:**

28 **(I) A VALID MARYLAND DRIVER'S LICENSE OR**
29 **IDENTIFICATION CARD ISSUED BY THE MOTOR VEHICLE ADMINISTRATION;**

1 **(II) A UNITED STATES MILITARY CARD OR MILITARY**
2 **DEPENDENT'S IDENTIFICATION CARD;**

3 **(III) A UNITED STATES MERCHANT MARINE CARD; OR**

4 **(IV) A NATIVE AMERICAN TRIBAL DOCUMENT; AND**

5 **(2) EXECUTE AN AFFIDAVIT STATING THAT THE PERSON IS:**

6 **(I) A UNITED STATES CITIZEN OR LEGAL PERMANENT**
7 **RESIDENT; OR**

8 **(II) OTHERWISE LAWFULLY PRESENT IN THE UNITED**
9 **STATES UNDER FEDERAL LAW.**

10 **(D) A STATE UNIT MAY ADOPT REGULATIONS AUTHORIZING THE USE OF**
11 **ADDITIONAL FORMS OF IDENTIFICATION OR A WAIVER PROCESS TO ENSURE**
12 **THE LAWFUL PRESENCE IN THE UNITED STATES OF ADULTS WHO ARE**
13 **APPLYING FOR FEDERAL PUBLIC BENEFITS OR STATE OR LOCAL PUBLIC**
14 **BENEFITS.**

15 **10-1304.**

16 **A STATE UNIT OR POLITICAL SUBDIVISION OF THE STATE MAY NOT**
17 **PROVIDE FEDERAL PUBLIC BENEFITS OR STATE OR LOCAL PUBLIC BENEFITS TO**
18 **AN ADULT WHO IS NOT LAWFULLY PRESENT IN THE UNITED STATES.**

19 **10-1305.**

20 **(A) A PERSON MAY NOT KNOWINGLY MAKE A FALSE, FICTITIOUS, OR**
21 **FRAUDULENT STATEMENT OR AFFIDAVIT UNDER § 10-1303(C) OF THIS**
22 **SUBTITLE.**

23 **(B) A PERSON WHO VIOLATES SUBSECTION (A) OF THIS SECTION IS**
24 **GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO**
25 **IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE OF NOT MORE THAN \$1,000**
26 **OR BOTH.**

27 **(C) EACH RECEIPT OF A PUBLIC BENEFIT CONSTITUTES A SEPARATE**
28 **VIOLATION UNDER THIS SUBSECTION.**

29 **10-1306.**

1 **(A) FOR EACH APPLICANT WHO EXECUTES AN AFFIDAVIT UNDER §**
2 **10-1303(C)(2) OF THIS SUBTITLE, A STATE UNIT OR POLITICAL SUBDIVISION**
3 **SHALL VERIFY THE LAWFUL PRESENCE OF THE APPLICANT THROUGH THE**
4 **SAVE PROGRAM OR ANY SUCCESSOR PROGRAM DESIGNATED BY THE UNITED**
5 **STATES DEPARTMENT OF HOMELAND SECURITY.**

6 **(B) UNTIL COMPLETION OF THE VERIFICATION OF LAWFUL PRESENCE**
7 **UNDER SUBSECTION (A) OF THIS SECTION, THE APPLICANT'S AFFIDAVIT MAY BE**
8 **PRESUMED TO BE PROOF OF LAWFUL PRESENCE FOR PURPOSES OF THIS**
9 **SECTION.**

10 **10-1307.**

11 **(A) EACH STATE UNIT AND POLITICAL SUBDIVISION MAY ADOPT**
12 **MODIFICATIONS TO THE REQUIREMENTS OF § 10-1303(C) OF THIS SUBTITLE TO:**

13 **(1) IMPROVE EFFICIENCY OR REDUCE DELAYS IN THE**
14 **VERIFICATION PROCESS; OR**

15 **(2) PROVIDE FOR THE ADJUDICATION OF UNIQUE INDIVIDUAL**
16 **CIRCUMSTANCES IN WHICH THE VERIFICATION REQUIREMENTS UNDER THIS**
17 **SUBTITLE WOULD IMPOSE AN UNDUE HARDSHIP ON A LEGAL RESIDENT OF THE**
18 **STATE.**

19 **(B) ANY MODIFICATION TO A REQUIREMENT ADOPTED UNDER THIS**
20 **SECTION SHALL BE AT LEAST AS STRINGENT AS THE REQUIREMENTS OF §**
21 **10-1303 OF THIS SUBTITLE.**

22 **10-1308.**

23 **EACH STATE UNIT THAT PROVIDES FEDERAL PUBLIC BENEFITS OR STATE**
24 **OR LOCAL PUBLIC BENEFITS SHALL:**

25 **(1) REPORT ANNUALLY TO THE GOVERNOR AND, IN ACCORDANCE**
26 **WITH § 2-1246 OF THIS ARTICLE, THE GENERAL ASSEMBLY ON ITS**
27 **COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBTITLE; AND**

28 **(2) REPORT ERRORS AND SIGNIFICANT DELAYS BY THE SAVE**
29 **PROGRAM TO THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY.**

30 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
31 **October 1, 2012.**